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Introduction

1. The Republic of Croatia achieved its independence in 1991 and received full international recognition at the beginning of 1992. It was created as a sovereign State by the decision of its people, expressed in a general referendum and confirmed by the decision of its first democratically elected Parliament, to abandon and dissolve legal bonds with the other republics which had constituted the Yugoslav federation.

2. During the same year, four out of those six constituent republics made virtually the same decision, and accordingly the former federation ceased to exist. This decision was founded on the federal Constitution of 1974 which, in accordance with the concept of federation in a voluntarily constituted compound republic, guaranteed to its constituent republics the legal status of sovereign States, including the right to self-determination and the right to secession. Therefore, Croatia, although a new independent State, is not a new one from the legal point of view. 1/

3. This is important to emphasize, since Croatia has for centuries struggled to maintain its legal status as a sovereign State in the various forms of quasi-federal arrangements it lived within together with other nations - Hungary, Austria, Serbia and others. This also explains the concept contained in the Preamble to the Croatian Constitution of 1990, which, under the heading "Historical foundations", demonstrates that Croatia has never abandoned its historical State rights or its constitutionally founded claim for independent statehood, in accordance with a decision of its people. And, last but far from least, this explains why Croatia, being already a State with its own legal and administrative order, was able to mobilize its people and defend itself against aggression from Serbia and its army during the war of 1991.

4. But Croatia did not succeed in defending all its internationally recognized borders. Approximately one third of the territory is still under occupation by Serbs and has the legal status of United Nations Protected Areas, under the control of an international peace-keeping force (UNPROFOR). The Croatian Government has repeatedly confirmed its determination to restore its sovereignty over the occupied territories by peaceful means with the support of the international community, as required and stipulated by numerous resolutions of the United Nations Security Council and resolutions of other international bodies. Thus, the international mediation and negotiations related to the question of war or peace have dominated the Croatian Government's efforts for the last three years. It has also participated in the efforts of the international community to achieve a just and lasting peace in Bosnia and Herzegovina, and a lasting settlement of disputes on the whole territory of the former Yugoslav federation.

5. However difficult those circumstances, on the territory under Croatian control the Government has initiated and is stimulating a process of restructuring society towards a market economy, political democracy and the rule of law, in accordance with its concern for the protection of human rights as stated in the Constitution of 1990, as well as in international legal instruments.

6. The war has caused enormous movement of people in and out of Croatia. Croatia is still caring for over 500,000 displaced persons and refugees. The provisional status of a considerable part of its territory as United Nations Protected Areas, prevents the Croatian Government from assuming full responsibility for the protection of human rights in those areas. The situation in the border areas which have been and are still being subjected to artillery attacks and have thus been exposed for years to the most precarious conditions makes efforts to maintain law and order there much harder than in the peaceful part of the country. The resource requirements for defence have been enormously increased by the exigencies of the situation, at the expense of investment for recovery and development. This is why we consider this introduction necessary to indicate the circumstances which are causing obstacles to reporting under the Convention as required by the consolidated guidelines.

I. LAND AND PEOPLE

A. Land

7. Croatia is located alongside the Adriatic Sea. It consists of three main geographic regions: Mediterranean, Mountains and Panonian Plains. It has been shaped by a long history of struggle between medieval empires in the form of a sickle, with Bosnia and Herzegovina in its hollow. It has a land area of 56,538 km^2, and 31,000 km^2 of territorial waters.

B. Population

8. In 1991 the population of Croatia numbered 4,784,265, of whom 2,318,623 were male and 2,465,642 female. The share of persons under 15 years of age was 19.4 per cent and of those over 65 it was 10.6 per cent. The proportion of the population in urban areas was 54 per cent, or 2,597,205 persons, and in rural areas 45.7 per cent.

9. The ethnic composition was as follows: 77.9 per cent Croats; 12.2 per cent Serbs; 1 per cent Muslims; 0.5 per cent Slovenes; 0.5 per cent Hungarians; 0.4 per cent Italians; 0.4 per cent Albanians; 0.3 per cent Czechs; 0.2 per cent Montenegrans; 0.1 per cent Macedonians; 0.1 per cent Germans; 0.1 per cent Roms; 0.1 per cent Ruthenians; 0.1 per cent Slovaks; 0.1 per cent Ukrainians; 2.2 per cent declared themselves "Yugoslavs"; and 4.1 per cent others. The population is mixed in the cities, and there are communities with a majority non-Croatian population. Thus the Serbian population is in the majority in 11 municipalities in the regions of Banija, Kordun, Lika and North Dalmatia.

10. With regard to language, 81.7 per cent of the population consider the Croatian language as their mother tongue; 9.8 per cent Croato-Serbian or Serbo-Croatian; 4 per cent Serbian; 0.4 per cent Slovenian; 0.4 per cent Hungarian; and 0.3 per cent Albanian.

11. The distribution of the population by religion included 76 per cent Catholics; 11.1 per cent Orthodox; 1.2 per cent Muslims; 1.4 per cent Protestants; and 3.9 per cent atheists.

12. With regard to activity, in 1991 45.3 per cent of the population was active (37.4 per cent women, 53.9 per cent men); 17.7 per cent of the population was self-supporting and 38 per cent was supported.

13. The birth rate in Croatia decreased from 3.5 per cent in the 1981 census to a negative 0.6 per cent in 1991. The number of live-born children was 10.8 per thousand (11.6 in 1990). The death rate was 11.4 per thousand. Of the 55,409 babies born in 1990, 51,534 were born to married mothers.

14. The average age for males was 35.0 years in 1989 and for females 38.5 years. Life expectancy was 68 years for men and 75.6 years for women. Women outnumbered men by approximately 150,000. The number of new marriages was 6 per thousand persons, and the number of divorces was 195.7 out of 1,000 marriages.

15. The level of education of the population over 15 years of age was as follows: 10.1 per cent had no or unknown education; 21.2 per cent had completed between four and seven grades of elementary school; 23.4 per cent had completed elementary education; 12.7 per cent were skilled or highly skilled workers; 23.3 per cent had completed secondary education; 4.0 per cent had completed two years of high school; and 5.3 per cent had university education. Three per cent of the population over 10 years of age were illiterate, or 127,438 persons in total, of whom 23,342 were male and 104,095 female (77,642 illiterate persons were over the age of 65). The illiteracy rate decreased from 5.6 per cent in 1981 to 3 per cent in 1991.

16. All the demographic data given here are from the last population census, held in 1991; demographic changes caused by the war are still the subject of research and collection of data. 2/ According to the official data published by the Ministry of Health, 6,829 Croatian citizens had been killed, 25,951 had been wounded and 12,751 had disappeared as of 26 August 1993. The Croatian Government was caring for 526,346 persons in October 1993 of whom 248,122 were displaced Croatian citizens and 278,224 were refugees from Bosnia and Herzegovina.

C. Economy

17. At the end of the 1980s Croatia was rated according to economic indicators as a middle-developed European country, with a GNP per capita income in 1990 of 5,205 United States dollars and an average personal income of around US$ 3,000 (about 25 per cent higher than the average of the former federation). War damage has to date been estimated at around US$ 23 billion and GNP has been reduced by 23.4 per cent as compared to 1990.

18. This deterioration of the economic situation led to an inflation rate for the period March-April 1993 of 22 per cent a month; and in September 1993 of around 35 per cent a month. Since then a package of fiscal and monetary measures was introduced which reduced the inflation to zero for the whole period from January to March 1994. The Government expects to obtain financial support from international monetary institutions, but has not received it yet, with the exception of a large amount of humanitarian aid. Unemployment has

been around 17 per cent for the whole period 1992-1994. The economy has been undergoing a process of restructuring which includes privatization and denationalization of public property and State run enterprises

II. GENERAL POLITICAL STRUCTURE

A. Historical background

19. Former Yugoslavia was created in 1918 as a unitary State under Serbian dynasty rule and dominated by Serbs as the largest nation. It collapsed immediately under the German attack in 1941, because its people did not want to defend it.

20. After the Second World War it was re-established in the form of a federation under the Communist Government of President Tito. Numerous reforms were introduced by Tito in order to accommodate various nationalities living in the federation: former Yugoslavia had four complete constitutions (1946; 1953; 1963; 1974) and over 100 constitutional amendments during its existence. But the national issue and Serbian pressure to gain dominance, continued to steam under the surface throughout the whole period under Communist leadership. This is why the Yugoslav federation was a country of permanent constitutional disputes centred around the very issue of its existence as a State.

21. The last Yugoslav Constitution of 1974 introduced a number of confederative elements into the federal structure: the federation was defined as an alliance of sovereign States which had the right to self-determination and to secession; which decided on the basis of consensus on the most important political and economic issues; and in which full national equality would be guaranteed to all its national and ethnic groups. But in spite of the Constitution, the Serbian striving for dominance continued, in the face of resistance from other republics, among which Croatia was the strongest. As soon as Tito, President for life under the Constitution, died in 1980, the Serbian leadership moved to change, or if necessary destroy, the federal framework of the Constitution. The political struggle for federation and equality had already lasted for nearly 10 years when, at the end of 1989, the collapse of the Communist regimes in the Soviet Union and Eastern and Central Europe brought to the surface all the weaknesses the Yugoslav system had in common with the other Communist regimes, and the imperative need for democratic transformation.

22. At that point, the constitutional disputes turned into direct political conflict. Strong resistance by the Serbian and Montenegran leadership to democratic reform, together with a disregard for human rights that was demonstrated in police and military action against the Albanian population in Kosovo and the violation of the federal Constitution by annulling the autonomy of the autonomous provinces of Kosovo and Vojvodina, prevented any democratic transformation of Yugoslavia as a whole. In such an unbearable situation, other constituent republics, Slovenia and Croatia as the most developed first, but followed by Macedonia and Bosnia and Herzegovina, decided to initiate democratic transformation themselves, claiming their rights under the federal Constitution.

23. The proposal to transform Yugoslavia into a confederation which would make possible the more independent development of its republics and nationalities, submitted in October 1990 by the new democratically-elected Governments of Slovenia and Croatia with the support of the great majority of their people expressed in referenda, was rejected by Serbia and Montenegro. To further violations of the federal Constitution, including an economic blockade and the seizing of the federal funds by Serbia, Slovenia and Croatia responded by a number of measures, and finally declared their sovereignty on 25 June 1991. The failure of the Yugoslav federation to transform itself from a Communist one-party State into a democracy thus caused its disintegration into constituent States. As early as in June 1989, Serbian President Milošević had threaten to use military force against his political opponents in other federal States.

24. Refusing proposals for peaceful and democratic resolution of the crisis, Serbia and Montenegro responded by military aggression, first against Slovenia, then against Croatia, and the following year against Bosnia and Herzegovina. According to Milošević's political concepts, this war is being waged in order to establish new borders manu militari by occupying as much of the Croatian and Bosnian territory as possible and thus creating on the ruins of Yugoslavia the new State entity of Greater Serbia. After the United Nations controlled cease-fire was achieved in Croatia, he continued his policy of violence in Bosnia and Herzegovina, where the horrors of war continue. During its aggression against Croatia, the Serbian dominated "Yugoslav People's Army" did not act as a federal force in order to protect the federal Constitution, but as a Serbian military force, into which it has since been formally transformed.

B. Creation of the independent Republic of Croatia

25. At the end of 1989 a consensus was achieved in Croatia between the reform-oriented wing of the ruling League of Communists and the newly formed opposition parties to hold free multi-party general elections, the first after 45 years of Communist rule. Elections were held in peace and good order in April and May 1990, and the process of transferring power to the victorious party, the Croatian Democratic Community (CDC), was completed in an orderly manner by 30 May 1990, when the new democratic Parliament (Sabor) was convened for the first time in Zagreb. CDC won over two thirds of the seats in Parliament; the strongest opposition party, the reform-oriented Communists (SDP) won about 25 per cent of the seats; and the coalition of the centre parties 11 per cent. The Parliament started to discuss a programme of reforms which, in accordance with the political programme of CDC, was designed to rapidly transform the country into a political democracy, based on a market economy and the rule of law, which would enable Croatia to join the European Community as soon as possible.

26. First, the Parliament adopted seven amendments to the Constitution of Croatia in 1974, by which the definition of the State as a "socialist" one was abolished and the Communist State insignia were replaced by the traditional ones. Second, it initiated a procedure to draft a new constitution, in accordance with the principles applied in the Constitutions of the democratic Western countries, which would make all the rights and freedoms contained in international legal instruments part of the internal legal order. The

Constitution was adopted on 21 December 1990. Third, it decided to put before the electorate the most crucial constitutional choice that had to be made: the status of Croatia as a sovereign State.

27. In the general referendum held on 19 May 1991, 93.94 per cent of voters, with a turnout of 84.94 per cent of the whole electorate, approved that "Republic of Croatia, as a sovereign and independent State which guarantees a cultural autonomy and all civil rights to Serbs and other nationalities in Croatia, might enter into alliance of sovereign States with other republics". In application of this popular decision, the Parliament, on 25 June 1991, adopted the following important constitutional decisions: Constitutional Decision on Sovereignty and Independence of the Republic of Croatia; Declaration on the Establishment of the Sovereign and Independent Republic of Croatia; and Charter on the Rights of Serbs and Other Nationalities in the Republic of Croatia. After the accepted period of a "moratorium" on further decisions concerning independence, as requested by the European Community mediators, had expired, amid the Serbian aggression against Croatia, these decisions were confirmed by the Parliament on 8 October 1991.

C. Constitutional definition of the Republic of Croatia

28. The Charter on the Rights of Serbs and Other Nationalities in Croatia was adopted in pursuance of the constitutional provisions that guarantee full equality to all people regardless of their ethnic origin or affiliation. 3/

29. The Croatian Constitution, in its preamble, defines the Republic in the following words:

> "the Republic of Croatia is hereby established as the national State of the Croatian nation and the State of members of other nations and minorities who are its citizens: Serbs, Muslims, Slovenes, Czechs, Slovaks, Italians, Hungarians, Jews and others, who are guaranteed equality with citizens of Croatian nationality and the realization of their ethnic rights in accordance with the democratic norms of the United Nations and of the free world countries".

This provision has been made a part of the Preamble, which does not have the normative nature of a positive law, in order to prevent any possible interpretation which would attempt to derive any particular rights for people of Croatian ethnicity. 4/ Thus, this norm relates to the State insignia, such as the banner and the coat of arms, the national anthem, the official language, as well as the very name of the State. It does not affect the rights of citizens in any respect. Consequently, article 1 of the Constitution reads: "Power in the Republic of Croatia derives from the people and belongs to the people as a community of free and equal citizens." (emphasis added). Article 3 defines national equality as one of the highest values of the constitutional order. Numerous other constitutional provisions guarantee and elaborate the principle of full national equality. Lastly, to stress the importance of national and ethnic equality, the Constitutional Law on Human Rights and Freedoms and Rights of Ethnic and National Communities or Minorities was adopted as a constituent part of the legal order in December 1991.

D. Organization of government

1. The President of the Republic

30. A presidential system on the model of the French Constitution of 1958 was adopted by the authors of the Croatian Constitution. The separation of powers has been declared the fundamental principle of governmental organization by article 4 of the Constitution. The President is elected directly in general elections for a five-year term. No one may serve as President for more than two terms. In the case of death or incapacity of the President, he would be temporarily succeeded by the Chairman of the Sabor for a period of no more than 60 days, in which new presidential elections must be held.

31. The President is the head of the State; he represents it at home and abroad; ensures respect for the Constitution, the continued existence of the Republic and the regular functioning of governmental institutions. The President may decide to put any question he deems important to a referendum, with the counter-signature of the Prime Minister, and a decision so reached binds the Parliament and all other State bodies.

32. The right to dissolve the House of Representatives is limited to two cases: if a budget is not adopted within one month of the proposal being submitted; and if a vote of censure on the Government is passed in the House. In both cases the President needs a proposal from the counter-signature of the Prime Minister, as well as consultation with the Chairman of the House. During a period of one year after new elections the House may not be dissolved again.

33. Under the Constitution the President is the Supreme Commander of the Armed Forces of the Republic. He has emergency powers which he may exercise by issuing ordinances with the force of law in widely defined cases of external or internal jeopardy to the sovereignty and integrity of the Republic or its constitutional order. In such cases his emergency ordinances shall have the force of law; they must be submitted to the Sabor for its approval as soon as it is able to convene. The right of dissolution cannot be exercised during a state of emergency.

34. The President is responsible for any violation of the Constitution, and may be impeached by a vote of two thirds of all the representatives in the House of Representatives. On such a motion the Constitutional Court decides by a vote of two thirds of all its members; if impeachment is sustained the President is dismissed from office.

2. The Parliament (Sabor)

35. The Sabor is a representation of the people and is vested with legislative power. Its structure is bicameral: the House of Representatives and the House of Counties (Županija). Members of both Houses are elected directly in general elections for a four-year term. The House of Representatives consists of 138 members, and the House of Counties of 68. Proportional representation of ethnic majorities is assured in accordance with the Constitutional Law on Minorities. The House of Counties provides regional representation and its members are elected by the people: three

representatives for each county. In addition the President of the Republic may appoint up to five members to the House of Counties from the ranks of nationally deserving people.

36. The House of Representatives is the first chamber and the legislator; it overviews the Government and decides on the budget. The House of Counties has an advisory role, to propose and discuss, but also exercises a suspensive veto on legislation adopted by the first chamber. In such case, the House of Representatives must reconsider the issue and readopt the piece of legislation by a requisite majority of all representatives.

37. Regarding the majority required, legislation is divided into three categories. Legislation which regulates civil rights, electoral matters and the establishment and organization of State agencies and bodies, as well as local government, has to be adopted by a majority of all representatives. Legislation relating to all matters of national equality must be passed by a majority of two thirds of all representatives, the same as is required to amend the Constitution. In both categories, the delegation of legislative authority is forbidden. Other acts are passed by a simple majority provided that more than half the representatives are present at the session.

38. The protection of the national rights of minorities is in the competence of a special standing commission of the Sabor consisting of representatives and of delegated citizens of different nationalities.

39. The Government is appointed by the President of the Republic. The Government is responsible to the President of the Republic and the Chamber of Representatives of the Sabor of the Republic of Croatia. The Prime Minister shall, not later than 15 days from his nomination, present the Government to the Chamber of Representatives and ask for a vote of confidence in the Government. The nomination of the Prime Minister and members of the Government shall be deemed to have been accepted if confidence in it has been expressed by a majority of all representatives in the Chamber of Representatives. At the proposal of at least a tenth of the representatives in the Chamber of Representatives, a vote of confidence in the Prime Minister, individual Government members or the Government as a whole may be requested.

III. GENERAL LEGAL FRAMEWORK FOR THE PROTECTION OF HUMAN RIGHTS

A. Authorities with competencies affecting human rights

40. The Constitutional Court is composed of 11 justices appointed for an eight-year term by the House of Representatives on the proposal of the House of Counties. The Constitution requires candidates to be jurists of distinction and experience, from the ranks of judges, public attorneys, acting lawyers and university professors of law. The Constitutional Law on the Constitutional Court specifies the requirements for appointment as 15 years of experience in legal practice, and distinction on the basis of scientific or expert works, or distinguished public activity. The President of the Court is appointed by the justices for a four-year term.

41. The independence of the justices from the legislative and the executive branch is guaranteed. They must not be dismissed before the expiry of their term except in the case of: resignation; incapacity for work; or sentencing to imprisonment by the criminal court. On the existence of these circumstances, and of the criminal immunity of a justice the Court itself decides.

42. The Constitutional Court reviews the conformity of laws with the Constitution, and may annul a law or any of its provisions if it holds them to be unconstitutional. It protects the civil rights and freedoms of citizens, and may annul any illegal act, or order the renewal of proceedings by a competent authority if it finds them to be in violation of the Constitution. A constitutional complaint may be filed by any citizen who deems his constitutional rights to be violated by an act or action of any State body or agency, after exhausting the regular legal remedies. The Court controls the activity and programmes of the political parties, and may ban a party which calls for violence or otherwise acts violently. The Court controls elections, and decides on motions of impeachment against the President of the Republic. The Court reaches decisions by a majority vote of all its members. Concurring and dissenting opinions may be given.

43. The independence of the judiciary is guaranteed. Judges and prosecutors are appointed by the High Judiciary Council of the Republic. The Council is elected by the House of Representatives on a proposal from the House of Counties. The same requirements for candidates have been prescribed as for Constitutional Court justices, and the term is eight years. Judges are appointed for life; they are guaranteed security of tenure and may be removed only at their own consent. On disciplinary matters the Judiciary Council decides, the judges having the right to appeal to the House of Counties. A judge may be dismissed only for the same reasons as Constitutional Court justices, and enjoys the same criminal immunity as the members of the Sabor.

44. The Supreme Court is the court of final appeal and of cassation, and ensures uniform application of the law and the equality of citizens under the law. Regular courts have two tiers. The right of appeal is guaranteed. The Administrative courts review the legality of the final decisions of administrative agencies. Military criminal courts were established under the extraordinary circumstances by presidential ordinance in 1991, for trials of cases which have military elements.

45. The Constitution establishes an Ombudsman as a parliamentary commissioner to defend citizens' rights before the administration. The office was established in 1993.

B. Constitutional guarantees of rights and freedoms

46. In its Guidelines for drafting the Constitution, adopted on the proposal of the President of the Republic on 17 July 1990, the Croatian Parliament ruled that the level of protection of human rights by the Constitution must be in accordance with the highest standards contained in the main international instruments, and wherever possible, should be made even higher than required

by those standards. During the drafting process, the international conventions regulating human rights were referred to, as were the Constitutions of the most developed democracies.

47. Article 3 of the Constitution declares freedom, equality under the law, national equality, love of peace, social justice, respect for human rights, inviolability of ownership, conservation of nature and the human environment, the rule of law, and a democratic multiparty system to be the highest values of the constitutional order of the Republic of Croatia. Therefore, the Constitution guarantees a wide array of personal and political freedoms and rights and of economic, social and cultural rights. The Constitution in its article 20 determines the principle that anyone violating human rights and freedoms shall be held personally responsible and may not exculpate himself by invoking a higher order.

48. Derogations have been permitted in extraordinary situations which are defined in article 17 as: during a state of war or immediate danger to the independence and unity of the Republic or in the event of some natural disaster. These situations shall be decided by the Parliament by a two-thirds majority of all representatives. If the Parliament is unable to convene owing to the circumstances, the President of the Republic is authorized to make the decision. The extent of the derogations must be commensurate with the nature of the danger, and must not result in the inequality of citizens in respect of race, colour, sex, language, religion, or national or social origin. In no circumstances may restrictions be imposed on the application of the provisions of the Constitution concerning the right to life; the prohibition of torture, cruel or degrading treatment or punishment; the legal definitions of penal offences and punishments; and the freedom of thought, conscience and religion. Capital punishment does not exist in the Republic of Croatia.

C. Special constitutional protection of ethnic minorities

49. The Constitutional Law on Human Rights and Freedoms and Rights of Ethnic and National Communities or Minorities of 8 December 1991, as amended on 15 March 1992 (hereafter referred to as the Law on Minorities), was drawn up in accordance with an agreement achieved at the peace conference on Yugoslavia held at The Hague at the end of October 1991, and elaborated under the supervision and review of Council of Europe experts.

50. The Law has been given constitutional force in order to emphasize its importance, although the Constitution contains basic guarantees of the collective rights of ethnic minorities and provides for forms of cultural autonomy to be established, as well as an authorization to the legislature to regulate these issues in detail.

51. The aim of the Law is to ensure individual rights to all citizens regardless of their ethnic affiliation, and to regulate in detail special collective rights of the communities whose ethnicity makes them a minority in Croatia. In particular the Law establishes two special autonomous units of local self-government in the areas in which Serbs represent a majority of the population.

52. In its two constitutionally most significant aspects, the Law provides for: proportional representation of minorities in the central government bodies; special status for the two districts with a Serbian majority population.

Proportional representation

53. In accordance with article 18 of the Law, there are two categories of ethnic minorities in regard to their right to proportional representation in the Croatian Parliament and Government: (1) minorities that make up over 8 per cent of the population according to the 1981 census are entitled to be represented in proportion to their share in the total population. The only such minority is the Serbian one, which amounts to 12 per cent. According to article 10/1 of the Electoral Law this proportion in the House of Representatives has been calculated from the number of seats provided for by the Constitution, which is 120, so that 14 seats have to be allocated to members of Serbian nationality; (2) minorities whose share in the total population is below 8 per cent are entitled to elect a total of five representatives. This concerns the Hungarian, Italian, Czech, Slovak, Ruthenian, Ukrainian, German, Austrian and all other ethnic minorities.

54. The Electoral Law further regulates the method of achieving the required minority representation in the House: (1) if the required representation is achieved in the regular process of elections, no additional measures are needed; (2) if the required representation is not achieved, the number of seats in the House should be increased up to the required number, so that the candidates belonging to a specific ethnic minority on party lists who have not been elected would be given seats in the order corresponding to their position on the list and to the proportional success achieved by the respective list at the elections; (3) if the required proportions are not achieved even in that way, a by-election should be called for a special minority electoral unit, within 60 days of the first session of the newly elected House.

55. At the 1992 elections the second procedure was applied and the number of seats in the House has been determined at 138.

Special statute districts

56. Under article 21 of the Law on Minorities, areas in which members of an ethnic minority make up over 50 per cent of the local population according to the 1981 census shall have a special statute within the system of Croatian local self-government. The organization and operation of such areas has to be in conformity with the Constitution of Croatia "as an integral and indivisible State". Those provisions relate to the two areas in which Serbs are in the majority and whose boundaries have been specified by article 22 of the Law: the district of Knin, which would incorporate six former communes, and that of Glina, which would encompass five. All ethnic communities within the special statute district have a right to be proportionally represented in the district assembly, administration, police and all other public services. Local government structure is to be composed of: the district assembly with its president whose election has to be approved by the Croatian Government, the executive council, the municipal courts and the district court. The courts are obliged to implement the law of the Republic, together with the local

by-laws which must not contradict it and are under the control of the Constitutional Court. For the cases from the exclusive competence of the districts, courts would have special divisions. Judges are appointed by the Judicial Council of the Republic, like all others, but on a proposal from the district assembly. Operation of the special statute districts shall be supervised by the commissioner of the Croatian Government, who however would not have any authority to make decisions.

57. Implementation of the Law would be supervised by an international body and the rights protected by the Court of Human Rights, which should be established by international agreement. Pending the establishment of those bodies a provisional court has to be established, whose president and two judges would be appointed by the presidency of the European Union, and two judges by the Sabor (art. 60). Rights of the special statute district would be protected by Constitutional Court.

58. The Law has been applied only on the territory under the Croatian Government's control. The full application of the Law would require peace to be achieved and the legal order restored on the whole Croatian territory.

D. International legal instruments and the internal legal order

59. International human rights instruments properly accepted by the Republic have been made an integral part of the internal legal order, and given a legal force above the law of the land. Article 134 of the Constitution reads:

> "International agreements concluded and ratified in accordance with the Constitution and published are a part of the internal legal order and have a legal force above the law. Their provisions may be changed or repealed only under conditions and in the way specified in them, or in accordance with the general rules of international law."

Under article 115 courts administer justice on the basis of the Constitution and the law. Therefore, international human rights instruments do not have to be transformed into internal laws in order to be invoked by citizens and enforced by the judicial authorities or other agencies.

E. Legal remedies available to citizens

1. The right to appeal

60. The right to appeal against the first instance decision in proceedings before courts or any other public authority has been guaranteed. It can be excluded only by the law if other legal remedy is ensured. Judicial proceedings are in two tiers, but extraordinary remedies against second tier decisions have also been provided in specified cases. General administrative procedure is regulated by the law, as well as the procedure for the judicial review of administrative decisions.

2. The right to initiate an administrative dispute

61. After exhausting the remedies in an administrative procedure, a party may initiate an administrative dispute before the Administrative Court. The Court reviews the legality of disputed acts, and may annul the act and return the case for a new consideration by the administrative agency.

3. Constitutional complaint

62. Anyone may file a constitutional complaint with the Constitutional Court, if it is considered that any of the constitutionally provided freedoms and rights has been violated by a decision of a judicial or administrative authority, or of any other public authority. If another remedy for protection of constitutional rights is provided, a constitutional complaint should be submitted only after exhaustion of that remedy. Thus the constitutional complaint is heard by the Court only if the regular remedies, such as appeal or administrative dispute, have been previously used. Constitutional Court is authorized to annul any decision by which constitutional freedoms or rights have been violated, and to establish the manner of compensation or rehabilitation.

4. Complaint to the Ombudsman

63. The Ombudsman protects the constitutional and legal rights of citizens against maladministration by administrative agencies and other bodies vested with public powers. He acts as a commissioner of the Parliament and reports to the Parliament.

5. Complaint to the Parliamentary Commission for Human Rights

64. Citizens may file a complaint with the Parliament, the Government or the President of the Republic, exercising their constitutional right to petition. The Parliamentary Commission for Human Rights is chaired by an opposition representative, and otherwise composed according to the party distribution in the House of Representatives. This body intervenes in protection of human rights by initiating proceedings of the competent authorities, informing the media and sometimes issuing recommendations.

F. Compensation and rehabilitation of victims

65. Chapter 23 of the Criminal Procedure Act regulates the procedure of rehabilitation, compensation for damages and realization of other rights of persons found to be the victims of unjustified conviction or deprivation of liberty.

66. Those rights belong to any person: (1) found to have been illegally convicted in the legal procedure initiated by any of the above-mentioned remedies; (2) detained in custody without prosecution or for a period longer than the sentence; (3) who has served his prison sentence and has been found not guilty in further proceedings; (4) who has been deprived of liberty or detained owing to an error or unlawful act of the authorities.

67. Material damages have been adjudicated in procedures initiated by legal remedies. Regarding the damages to the reputation of the person, the court of justice shall order a publication in the media of the statement that the deprivation of liberty had been illegal and the previous decision repudiated.

IV. INFORMATION AND PUBLICITY

68. Texts of ratified international instruments are published in the official gazette Narodne Novine in the original language and in Croatian translation. The texts of major human rights instruments have been widely translated and published in collections edited by scholars and human rights activists. Media programmes on human rights have been promoted for the past three years. There is a continuous public debate on human rights issues in the press and other media.

69. The non-governmental organizations play an active role in the struggle for human rights promotion and protection. The Helsinki Watch Committee, the Croatian Committee for Human Rights, the Medical Center for Human Rights, the Center for Peace, Non-violence and Human Rights, the Anti-War Campaign and others have been active in the field, organizing gatherings, collecting and publishing information, and offering assistance to citizens in cases of abuse. Also, owing to the extraordinary circumstances, teams from virtually all the major international and many foreign humanitarian and human rights organizations have been present in the country, whether permanently or in various fact-finding missions. UNHCR administers humanitarian aid and offers assistance to the Croatian Government regarding the rights of refugees and displaced persons through its offices in all major cities in the country.

70. Reports under the international human rights instruments have been prepared by governmental agencies (the Ministry of Labour and Social Security, the Ministry of the Interior, the Ministry of Justice, the Ministry of Health, the Public Prosecutor's Office, the Ministry of Defence, and others), in cooperation with the experts from the University and research institutes. There has not been a public discussion about the contents of specific reports so far, since in all fields they have been in the stage of preparation as the first Croatian reports since achieving independence. The reports will be published by the Government and offered to the public together with recommendations as soon as they have been considered by the competent international bodies.

Notes

1/ This was confirmed by the International Arbitrage Commission, created under the auspices of the European Community, under the chairmanship of Mr. Badinter of France, in its decision of 10 December 1991.

2/ Comprehensive statistical information is available for consultation in the archives of the secretariat, including:

Popis stanovništva 1991: Narodnosni sastav stanovništva Hrvatske po naseljima (Population Census: Ethnic composition of Croatia according to the communities); Republika Hrvatska - Republički zavod za statistiku, dokumentacija 881, Zagreb 1992.

Ivan Crkveni and Mladen Klemenčić (eds.): Agression against Croatia: Geopolitical and Demographic Facts, Republic of Croatia - Central Bureau of Statistics, 80 studies and analyses, Zagreb 1993.

Statistical Information 1992, Republic of Croatia - Central Bureau of Statistics, Zagreb 1993.

Milovan Baletić (ed.), Hrvatska 1994 (Croatia 1994), INA Consulting, Zagreb 1993.

3/ Such as race, gender, colour, language, religion, political or other opinion, etc., cf. art. 14.

4/ The Constitution of the Socialist Republic of Croatia of 1974 defined in its article 1, the SR Croatia as "the State of Croatian nation, Serbian nation in Croatia and the State of other nationalities who live in it".